

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:)	Complaint No R8-2003-0073
)	For
ExxonMobil Refining & Supply)	Administrative Civil Liability
3700 West 190th Street, TPT-2)	
Torrance, CA 90509-2929)	
Attention: Johnny Medrano)	

YOU ARE HEREBY GIVEN NOTICE THAT:


1. ExxonMobil is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board) may impose administrative liability pursuant to Section 13385(c) of the California Water Code.
2. A hearing concerning this complaint is scheduled for the Board's regular meeting on August 22, 2003 at the Orange County Water District Office at 10500 Ellis Avenue in Fountain Valley, CA 92708, unless ExxonMobil waives its right to a hearing. Waiver procedures are specified on Page 3 of this complaint.
3. ExxonMobil or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of liability by the Board. An agenda for the meeting and the staff report pertaining to this item will be mailed to you not less than 10 days prior to the hearing date.
4. If the August 22, 2003 hearing is held, the Board will consider whether to affirm, reject or modify the proposed assessment or whether to refer this matter to the Attorney General for recovery of judicial civil liability.
5. This complaint is based on the following facts:
 - a. ExxonMobil operates a service station at 6824 Valley Way in Riverside. Due to past underground storage tank related leaks from the site, a groundwater cleanup system was operating at the site to remediate groundwater containing up to 12,000 µg/l of benzene, 62,000 µg/l of methyl tertiary butyl ether (MtBE), 170,000 µg/l of tertiary butyl alcohol (TBA) and other petroleum constituents.
 - b. On April 16, 2001, the Executive Officer authorized ExxonMobil to discharge treated groundwater from its system under the former General Groundwater Cleanup Permit, Waste Discharge Requirements, Order No. 96-018. The April 16 letter stated that Order 96-018 would expire on October 1, 2001.

- c. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). This permit replaced Order No. 96-018.
 - d. ExxonMobil did not immediately apply for authorization to discharge pursuant to Order No. R8-2002-007, and later submitted a notice of intent to operate under the Permit on December 10, 2002.
 - e. On December 23, 2002, the Executive Officer authorized ExxonMobil to discharge treated groundwater from its treatment system under the Permit. The authorization also included Monitoring and Reporting Program No. R8-2002-007-093.
 - f. The Permit includes effluent limits for a number of constituents including tertiary butyl alcohol (TBA) and total petroleum hydrocarbons (TPH) as gasoline.
 - g. ExxonMobil discharged treated groundwater in April, May and June of 2002 without a permit.
 - h. On August 30, 2002, ExxonMobil submitted two self-monitoring reports that show that ExxonMobil discharged pollutants to surface waters without a permit. If these discharges were regulated under the Permit, the discharges would have been in violation of the daily maximum (18.6 µg/l and 155 µg/l) and the monthly average (12 µg/l and 100 µg/l) concentration limits for TBA and TPH, respectively. On May 28, 2002, the TBA concentration in the discharge was 37 µg/l. On June 4, 2003, the TPH concentration was 230 µg/l. On June 4 and 11, 2002, the TBA concentrations in the discharge were 9,200 and 12,000, respectively. These concentrations exceed the daily maximum limit by greater than 20 percent. The averages of the samples collected for the months of May and June also exceed the monthly average limit by greater than 20 percent. These exceedences would have been serious violations of the Permit, as specified under Water Code Section 13385(h).
 - i. The self-monitoring reports submitted on August 30, 2002 indicate that the groundwater extraction and treatment system was shut down on June 12, 2002.
6. Water Code Section 13385 (h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) each for all serious violations of an NPDES permit. If ExxonMobil had authorization to discharge under the Permit, the Board would have been required to assess a mandatory penalty of \$21,000 for the seven serious (four daily and three monthly effluent limit) violations.

7. ExxonMobil violated Section 13376 of the Water Code by discharging pollutants to surface waters without a permit.
8. In accordance with Water Code Section 13385(c), the Board may impose administrative civil liability for the violations of Section 13376. The maximum administrative civil liability that may be imposed for these violations is \$1,015,060 (\$10,000 per day for 28 days of violation, plus \$10 per gallon for every gallon of discharge over 1,000 gallons, with a total discharge of 74,506 gallons).
9. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. After consideration of these factors, the Executive Officer proposes that civil liability be imposed on ExxonMobil in the amount of \$21,000 for the violations cited above.
10. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver, which is Page 4 of this complaint, and return it together with a check payable to the State Water Resources Control Board. The check, the bottom portion of the invoice and the waiver form should be mailed to Sacramento in the preprinted enclosed envelope.

If you have any questions regarding this complaint, please contact Mike Adackapara at (909) 782-3238, or Ken Williams at (909) 782-4496. All legal questions should be referred to the Board's legal counsel, Jorge Leon, at (916) 341-5180.

7/21/03
Date


Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

ExxonMobil Refining & Supply)	Complaint No. R8-2003-0073
3700 West 190th Street, TPT-2)	For
Torrance, CA 90509-2929)	Administrative Civil Liability
Attn: Johnny Medrano)	

WAIVER OF HEARING

I agree to waive the right of ExxonMobil to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0073. A check for \$21,000 is enclosed. I understand that I am giving up the right of ExxonMobil to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2003-0073, and against the imposition of, and amount of, the mandatory penalties.

Date

for ExxonMobil



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

*The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>*

Gray Davis
Governor

To:
EXXONMOBIL REFINING & SUPPLY
3700 W. 190TH STREET, TPT-2
TORRANCE, CA 90509-2929
ATTN: J. MEDRANO

Invoice No: 35358
Invoice Date: 07/21/2003
Enforcement Action ID: 71827
Enforcement Order No: R8-2003-0073

INVOICE

ACLCOMP

Milestone ID	Description	Amount	Due Date
47977	LIABILITY AMOUNT	\$21,000.00	
TOTAL AMOUNT DUE		\$21,000.00	

California Environmental Protection Agency



Retain above portion for your records



Please return bottom portion with your payment

EXXONMOBIL REFINING & SUPPLY
3700 W. 190TH STREET, TPT-2
TORRANCE, CA 90509-2929
ATTN: J. MEDRANO

Make your check payable to:

State Water Resources Control Board

Mail payment to:

SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Milestone ID	Description	Amount	Due Date
47977	LIABDUE	\$21,000.00	
TOTAL AMOUNT DUE		\$21,000.00	

Amount Enclosed: \$ _____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: 35358

Invoice Date: 07/21/2003
Enforcement Action ID: 71827
Enforcement Order No.: R8-2003-0073



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 FAX (909) 781-6288



Gray Davis
Governor

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.*

July 21, 2003

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Johnny Medrano
ExxonMobil Refining & Supply
3700 West 190th Street, TPT-2
Torrance, CA 90509-2929

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2003-0073 – FOR
VIOLATIONS OF CALIFORNIA WATER CODE SECTION 13376 AT EXXONMOBIL
SERVICE STATION NO. 18-HTY

Dear Mr. Medrano:

Enclosed is a certified copy of Administrative Civil Liability Complaint No. R8-2003-0073. The Complaint is in response to reported discharges without a permit. The complaint proposes an assessment of \$21,000 for the violations that occurred in May and June 2002.

Consideration of this Complaint is scheduled for the Board's August 22, 2003 regular meeting at the Orange County Water District office at 10500 Ellis Avenue in Fountain Valley, CA. The staff report regarding this complaint and a meeting agenda will be mailed to you no less than 10 days prior to the hearing.

You have the option to waive your right to a hearing. Should you decide to waive your right to a hearing and pay the proposed assessment, please sign the enclosed waiver form and submit it to Sacramento with the bottom portion of the invoice, and a check for \$21,000 made out to the State Water Resources Control Board in the enclosed preprinted envelope. Should you decide to waive your right and pay the proposed assessment, the Regional Board will not hold a public hearing on this matter.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please contact us prior to August 1, 2003. At that time, you may submit information that may not have been previously available to staff regarding this violation. This information should address the following:

1. Nature, circumstances, extent, and gravity of the violation;
2. Your ability to pay the proposed assessment;
3. Any prior history of violations;

California Environmental Protection Agency



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July 21, 2003

4. Your degree of culpability;
5. Economic benefit or savings; and,
6. Such other matters as justice may require.

If you have any questions, please call Ken Williams or Rose Scott of my staff, at (909) 782-4496 and (909) 320-6375, respectively. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,



Gerard J. Thibeault
Executive Officer

Enclosure: Complaint No. R8-2003-0073, Waiver form, Invoice, Pre-printed envelope

cc: Regional Board
State Water Resources Control Board, Division of Clean Water – UST Chief
State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Kathi Moore
Kleinfelder - Mike Kesler

rscott/projects/mobil/exxonmobil.hty.acl.ltr